

ORDINANCE No. 117350

Council Bill 110408

79

Law Dept

The City of

AN ORDINANCE relating to land use and zoning, amending Sections 23.47.002, 23.47.008, 23.47.012 and 23.47.013 of the Seattle Municipal Code and adding a new chapter 23.72 to the Seattle Municipal Code to create the 12th Avenue Overlay District; adopting amendments to the Official Land Use Map, Chapter 23.32 to establish the 12th Avenue Overlay District; **NOW THEREFORE**

Honorable President:

Your Committee on PLANNING

to which was referred the within Council report that we have considered the same

COMPTROLLER FILE No. _____

Introduced: <u>10-10-94</u>	By: <u>Stout</u>
Referred: <u>10-10-94</u>	To: <u>Planning and Regional Growth</u>
Referred:	To:
Referred:	To:
Reported: <u>OCT 17 1994</u>	Second Reading: <u>OCT 17 1994</u>
Third Reading: <u>OCT 17 1994</u>	Signed: <u>OCT 17 1994</u>
Presented to Mayor: <u>OCT 17 1994</u>	Approved: <u>OCT 17 1994</u>
Returned to City Clerk: <u>OCT 17 1994</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Full Council

OK

Date Reported and Adopted

REPORT OF COMMITTEE

President:
Committee on

PLANNING & REGIONAL AFFAIRS

has referred the within Council Bill No.

110408

we have considered the same and respectfully recommend that the same:

pass as amended

3-0

Full Council Vote 9-0

10/11/94

Committee Chair

[Handwritten Signature]

ORDINANCE 117350

AN ORDINANCE relating to land use and zoning, amending Sections 23.47.002, 23.47.008, 23.47.012 and 23.47.013 of the Seattle Municipal Code and adding a new chapter 23.72 to the Seattle Municipal Code to create the 12th Avenue Overlay District; adopting amendments to the Official Land Use Map, Chapter 23.32 to establish the 12th Avenue Overlay District; **NOW THEREFORE**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Official Land Use Map of the City of Seattle, SMC 23.32.016, is hereby amended to create the 12th Avenue Overlay District. The boundaries of the 12th Avenue Overlay District are shown on Figure 1 attached hereto.

Section 2. Seattle Municipal Code Section 23.47.002, last amended by Ordinance 116795, is amended as follows:

23.47.002 Scope of Provisions

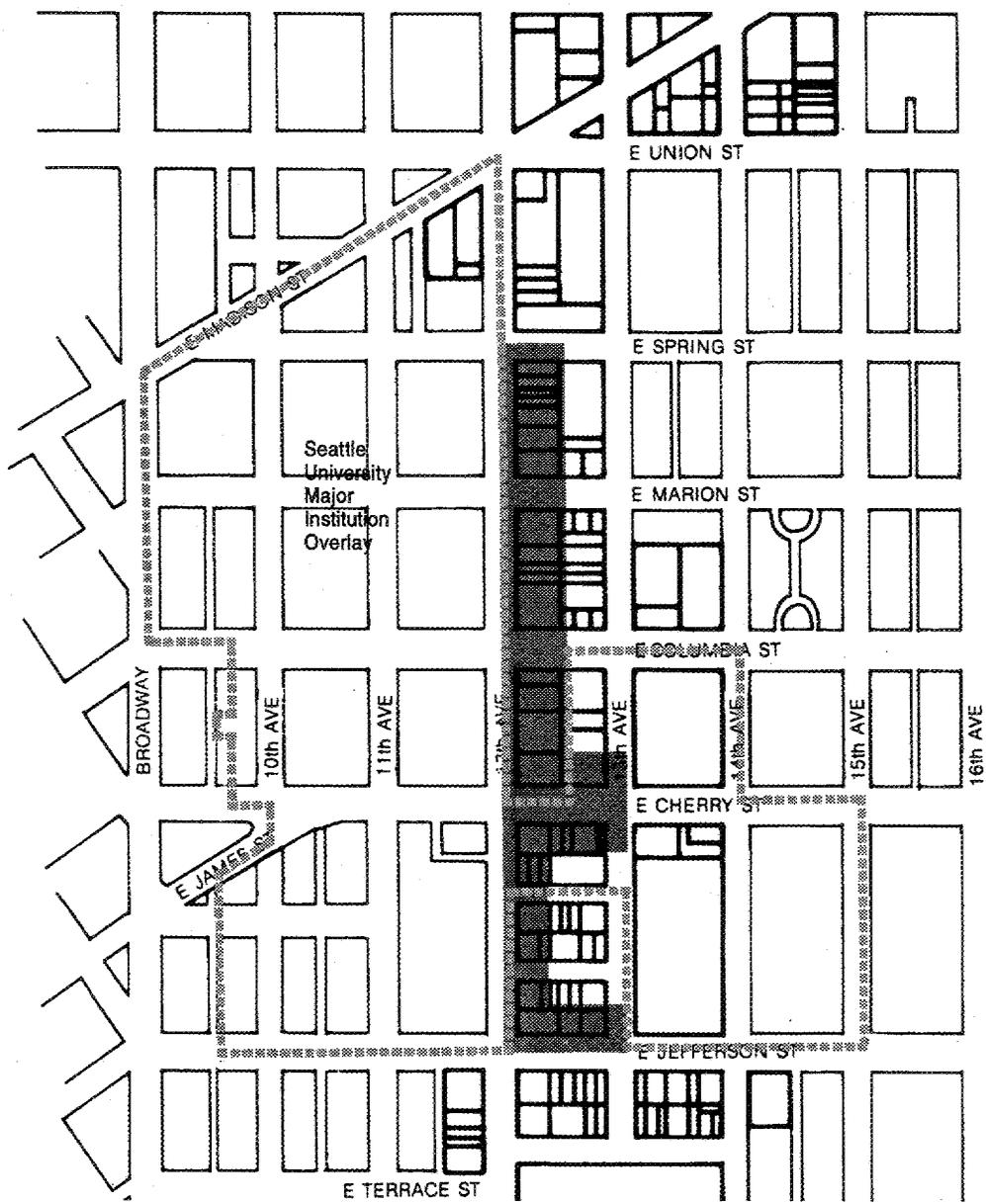
* * *

C. In addition to the regulations of this Chapter, certain commercial areas may be regulated by Subtitle IV, Division 3, Overlay Districts. ~~Special Review Districts, Chapter 23.66; Landmarks Districts, Chapter 25.12; Sign Overlay Districts, Chapter 23.55; Seattle Shoreline District, Chapter 23.60; or the Northgate Overlay District, Chapter 23.71.~~

Section 3. Seattle Municipal Code Section 23.47.008, last amended by Ordinance 116795, is amended as follows:

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Figure 1
12th Avenue Overlay Area



 Overlay boundary—all zoning is Neighborhood Commercial 2 40'

23.47.008 Mixed Use Structures

A. A mixed use structure is one which contains residential and nonresidential use meeting the standards specified in this section, except as provided in the Northgate Overlay District, Chapter 23.71; and the 12th Avenue Overlay District, Chapter 23.72.

* * *

Section 4. Seattle Municipal Code Section 23.47.012, last amended by Ordinance 116295, is amended as follows:

23.47.012 Structure height and floor area ratio

A. Maximum Height. The maximum structure height for commercial zones shall be thirty feet (30'), forty feet (40'), sixty-five feet (65'), eighty-five feet (85'), one hundred twenty-five feet (125'), or one hundred sixty feet (160'), as designated on the Official Land Use Map, Chapter 23.32. In addition, mixed use structures located in 12th Avenue Overlay District commercial zones with a thirty foot (30') or forty foot (40') height limit may exceed the height limit of the zone by up to four feet (4'), according to the provisions of Section 23.72.008.

* * *

Section 5. Seattle Municipal Code Section 23.47.013, last amended by Ordinance 113985, is amended as follows:

23.47.013 Width and Depth for Mixed Use Structures

When located more than twelve feet above finished grade, the residential portion of a mixed use structure shall be limited to a maximum width of eighty percent (80%) of

1 the width of the lot and a maximum depth of eighty percent (80%) of the depth of the
2 lot, except in the 12th Avenue Overlay District, Chapter 23.72.

3 * * *

4 **Section 6.** A new Chapter 23.72 is hereby added to the Land Use Code, Title 23
5 of the Seattle Municipal Code, to read as follows:

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8 **Chapter 23.72 12th Avenue Overlay District**

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10 **Subchapter I Establishment of Overlay District**

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12 **23.72.002 Purpose and Intent**

13 The purpose of this Chapter is to implement the goals of the 12th Avenue Development
14 Plan, which include providing regulations that encourage the development of mixed use
15 structures. Mixed use development is desired to create viable nonresidential uses at the
16 street level that are adjacent to residential uses.

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18 **23.72.004 12th Avenue Overlay District Established**

19 There is hereby established pursuant to Chapter 23.56 of the Seattle Municipal Code, the
20 12th Avenue Overlay District, as shown on the City's Official Land Use Map, Chapter
21 23.32 and Figure 1.

22
23 **23.72.006 Application of Regulations**

24 All land located within the 12th Avenue Overlay District is subject to the regulations of
25 the underlying zone unless specifically modified by the provision of this chapter. In the
26 event of a conflict between the provisions of this chapter and the underlying zone, the
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1 provisions of this Chapter apply. In the event of a conflict between the provisions of this
2 Chapter and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter
3 23.69 apply.

4 Subchapter II Development Standards

5 **23.72.008 Mixed Use**

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9 A. A mixed use development consists of residential and nonresidential uses in
10 the same structure or in separate structures on the same lot.

11 B. A minimum of eighty percent (80%) of a mixed use development's street
12 front facade at street level shall be occupied by nonresidential uses. The required
13 nonresidential uses shall extend at least thirty feet (30') from the front of the structure to
14 the rear or have an area equal to fifty percent (50%) of the structure's footprint,
15 whichever is less, and subject to the following:

16 1. For purposes of calculating the eighty percent (80%) of a mixed use
17 development's street front facade at street level, twenty-two feet (22') for the width of a
18 driveway accessing parking if the access cannot be provided from a side street or alley
19 may be subtracted from the length of the street front facade.

20 2. If the nonresidential and residential uses are located in separate
21 structures, the requirement shall apply to the lot's lineal street frontage at street level.

22 3. The requirement for nonresidential use frontage and depth shall be in
23 uses other than principal use parking, accessory parking for nonresidential uses, mini-
24 warehouses, warehouses, lodging or utilities.

25 4. Where the lot fronts on two (2) or more streets and abuts a lot which is
26 not zoned for commercial use, the street front facade requirement shall apply to the
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1 structure's facade along the street with the greatest continuous lineal feet of
2 commercially zoned frontage.

3 5. Where a lot fronts on two (2) or more streets and only abuts lots which
4 are zoned for commercial use, the street front facade requirement shall be calculated by
5 totaling the mixed use structure's total combined street front facades. For a through lot
6 where two (2) or more street fronts are not contiguous, the Director may waive the
7 requirement for one of the street fronts if the street is not a major commercial street.
8 The Director may require screening of garbage cans, parking and utility meters where
9 the streetfront requirement is waived.

10 6. A minimum of fifty-one percent (51%) of the portion of a mixed use
11 development's street front facade which contains required nonresidential use shall be at
12 or above sidewalk grade.

13 7. The entrance to required nonresidential uses at street level shall be no
14 more than three feet (3') above or below sidewalk grade.

15 8. For the purposes of this Section, a mixed use development's street
16 front facade is measured by drawing the least rectangle that encloses the structure and
17 measuring the length of the side of that rectangle most closely parallel to the front of
18 streetside lot line(s) (Exhibit 23.47.008A).

19 C. For structures which contain both residential and nonresidential uses, all
20 nonresidential use at street level shall have a minimum floor to floor height of thirteen
21 feet (13'). In addition, in zones with a thirty foot (30') or forty foot (40') height limit,
22 the height of the structure may exceed the height limit of the zone by up to four feet (4')
23 if the following conditions are met:

24 1) The additional height will result in nonresidential floor to floor height
25 of thirteen foot (13') or more and at least nine feet (9') for each residential level of the
26 structure; and
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2) In no circumstance shall this additional height permit an additional story to be built (beyond three for a zone with a 30 foot height limit and four for a zone with a 40 foot height limit); and

3) The additional height shall not significantly block views from neighboring properties.

D. Any detached structure which contains residential uses and does not meet the requirements for mixed use structures as provided in this section shall be considered a single-purpose residential structure.

E. Above thirteen feet (13') from finished grade and above the required nonresidential use, the residential portion of a mixed use structure shall be limited to a maximum coverage area of sixty-four percent (64%) of the lot. This regulation shall not apply to existing structures constructed as of the effective date of this ordinance or to a lot on which the nonresidential and residential uses are located in separate structures.

Section 7. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor; but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by the Municipal Code Section 1.04.020.

1 Passed by the City Council the 17 day of October, 1994, and signed by
2 me in open session in authentication of its passage this 17 day of
3 October, 1994.

4 
5 _____
6 President of the City Council

7 Approved by me this 24 day of October, 1994.

8 
9 _____
10 Norman B. Rice, Mayor

11 Filed by me this 24 day of October, 1994.

12 
13 _____
14 Deputy Clerk

15 (SEAL)

16 Published _____
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D. Any detached structure which contains residential uses and does not meet the requirements for mixed use structures as provided in this section shall be considered a single-purpose residential structure.

E. When located more than thirteen feet above finished grade and above the required nonresidential use, the floor area of the residential portion of a mixed use structure shall be limited to a maximum coverage of seventy percent (70%) of the lot area. This regulation shall not apply to existing structures constructed as of the effective date of this ordinance or to a lot on which the nonresidential and residential uses are located in separate structures.

Section 7. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 1994, and signed by me in open session in authentication of its passage this ____ day of _____, 1994.

President _____ of the City Council

Approved by me this ____ day of _____, 1994.

Norman B. Rice, Mayor

Filed by me this ____ day of _____, 1994.

City Clerk

(Seal)

1 structure's facade along the street with the greatest continuous lineal feet of
2 commercially zoned frontage.

3 5. Where a lot fronts on two (2) or more streets and only abuts lots which
4 are zoned for commercial use, the street front facade requirement shall be calculated by
5 totaling the mixed use structure's total combined street front facade. For a through lot
6 where two (2) street fronts are not contiguous, the Director may waive the requirement
7 for one of the street fronts if the street is not a major commercial street.

8 6. A minimum of fifty-one percent (51%) of the portion of a mixed use
9 development's street front facade which contains required nonresidential use shall be at
10 or above sidewalk grade.

11 7. The entrance to required nonresidential uses at street level shall be no
12 more than three feet (3') above or below sidewalk grade.

13 8. For the purposes of this Section, a mixed use development's street
14 front facade is measured by drawing the least rectangle that encloses the structure and
15 measuring the length of the side of that rectangle most closely parallel to the front of
16 streetside lot line(s) (Exhibit 23.47.008A).

17 C. For structures which contain both residential and nonresidential uses, all
18 nonresidential use with a street front facade at street level shall have a minimum floor to
19 floor height of thirteen feet (13'). In addition, in zones with a thirty foot (30') or forty
20 foot (40') height limit, the height of the structure may exceed the height limit of the zone
21 by up to four feet (4') if the ground floor of the nonresidential space has a minimum
22 floor to floor height of thirteen feet (13') and the residential space has a minimum floor
23 to floor height of nine feet (9'). If the residential and nonresidential uses are located in
24 separate structures, this subsection shall not apply.
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1 provisions of this Chapter apply. In the event of a conflict between the provisions of this
2 Chapter and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter
3 23.69 apply.

4 Subchapter II Development Standards
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6 **23.72.008 Mixed Use**
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9 A. A mixed use development consists of residential and nonresidential uses in
10 the same structure or in separate structures on the same lot.

11 B. A minimum of eighty percent (80%) of a mixed use development's street
12 front facade at street level shall be occupied by nonresidential uses. The required
13 nonresidential uses shall extend at least twenty feet (20') from the front of the structure
14 to the rear, subject to the following:

15 1. For purposes of calculating the eighty percent (80%) of a mixed use
16 development's street front facade at street level, twenty-two feet (22') for the width of a
17 driveway accessing parking if the access cannot be provided from a side street or alley
18 may be subtracted from the length of the street front facade.

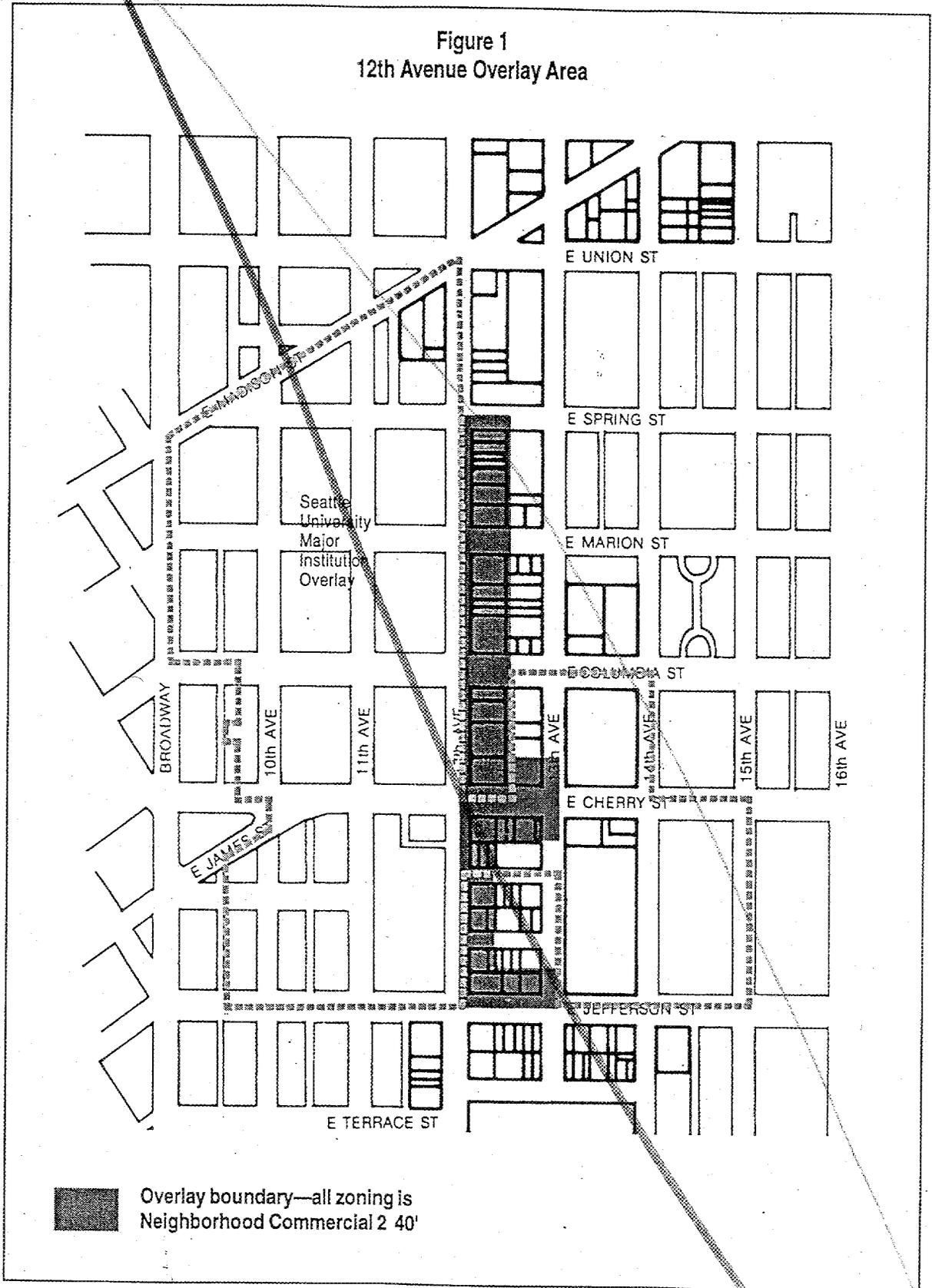
19 2. If the nonresidential and residential uses are located in separate
20 structures, the requirement shall apply to the lot's lineal street frontage at street level.

21 3. The requirement for nonresidential use frontage and depth shall be in
22 uses other than principal use parking, accessory parking for nonresidential uses, mini-
23 warehouses, warehouses, lodging or utilities.
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25 4. Where the lot fronts on two (2) or more streets and abuts a lot which is
26 not zoned for commercial use, the street front facade requirement shall apply to the
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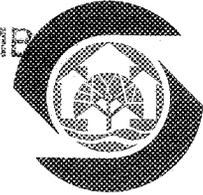
Figure 1
12th Avenue Overlay Area



Seattle
Department of Construction and Land Use

RECEIVED OMB

SEP 26 1994



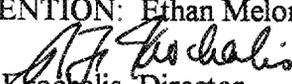
R. F. Krochalis, Director
Norman B. Rice, Mayor

MEMORANDUM

TO: Jim Street, City Council President

VIA: Diana Gale, Director, OMB

ATTENTION: Ethan Melone, Budget Analyst

FROM: 
Rick Krochalis, Director

DATE: September 26, 1994

SUBJECT: 12th Avenue Mixed Use Zoning Overlay Code Amendment

TRANSMITTAL

With this memorandum we are transmitting for City Council consideration the proposed ordinance to adopt Land Use Code text amendments for the 12th Avenue Mixed Use Zoning Overlay.

BACKGROUND AND SUMMARY OF RECOMMENDATIONS

The Department of Construction and Land Use (DCLU) and the Department of Neighborhoods (DON) recommend the creation of a mixed use zoning overlay for parcels within the City's 12th Avenue Development Plan study area. The Plan area includes parcels along the east side of 12th Avenue between East Spring and Jefferson Streets. Approved by the City Council in October 1992, the 12th Avenue Development Plan includes neighborhood and street improvements, mixed-use and residential development and changes in land use regulations that together constitute a multi-faceted approach to redevelopment of a critical edge of the larger Central Area community.

The goal of the 12th Avenue Development Plan is to create a vibrant, neighborhood-serving business area characterized by mixed use development, defined as structures containing both residential and commercial uses. The recommended overlay includes Land Use Code revisions for mixed use development standards, such as the amount of non-residential use required, the relationship of non-residential use to the street, height

limits for the nonresidential space, bulk limits, allowing the nonresidential and residential uses in separate structures and types of commercial uses permitted. The purpose of these changes is to better achieve the intent of mixed use development, which is to create viable nonresidential uses at the street level that provide goods and services to the surrounding community and are adjacent to residential uses. Attached is a copy of the Report and Recommendation for the 12th Avenue Overlay.

The changes proposed as part of this overlay are all included as changes recommended as part of implementation of Seattle's Comprehensive Plan. While it is anticipated that the 12th Avenue Overlay will be adopted before implementation of the Comprehensive Plan, the Overlay can be deleted if the Comprehensive Plan changes are identical to the 12th Avenue Overlay.

When work on the 12th Avenue Overlay began, it was not necessarily anticipated that mixed use development standard changes would be proposed as part of the Comprehensive Plan. The City owns properties within the 12th Avenue Overlay, and as soon as the Overlay is adopted, the properties will be advertised to solicit private development interest. Consequently, it is important for the Overlay to be adopted as soon as possible.

SEPA

An environmental review checklist has been filed with the department and a Determination of Non-Significance (DNS) was issued on September 1, 1994. The appeal period ended on September 16, 1994. There were no appeals.

COSTS OF IMPLEMENTATION

The costs of implementing the proposed text amendment will be primarily for staff training and code publication and purchase.

Training will be provided by one staff person at two regularly scheduled staff meetings. Costs of training, including copying, training time and preparation would be approximately \$339.

The cost of copying the ordinance for DCLU staff will be approximately \$39.60. Printing new Land Use Code pages will cost approximately \$92 for the Book Publishing version. The total cost for code publication and purchase is approximately \$131.60.

Total implementation costs, including training, code publication and purchase will be approximately \$470.60.

If you have any questions about the recommended changes, please call Nathan Torgelson at 233-3885.

however, the Council added density limits to the multifamily zones that significantly reduced the number of units that developers could place on parcels in those areas. This, in turn, caused some residential developers to pursue development projects in commercial areas. Because single-purpose residential buildings in commercial zones are subject to the same development standards as similar buildings in multifamily zones, developers have chosen to build mixed use buildings. A mixed use building is not currently subject to limits on density. Over the past six years, builders have constructed over 1,400 housing units and 255,000 square feet of commercial space in mixed use structures citywide. However, according to the Mixed Use Development Standard Study, 47 percent of the commercial space in these projects sit vacant today. In one sense the regulations have resulted in the type of development they were meant to encourage. However, public perception has been that some mixed use developments have not contributed to neighborhood vitality, but instead have resulted in vacant commercial spaces that detract from their surroundings. This recommended overlay is a response to some of these problems and experience gained over time with mixed use development regulations.

In an effort to better understand what was causing such high vacancy rates, the DCLU and the DON commissioned a study of mixed use development. The Mixed Use Development Standard Study¹ outlines the issues developers, lenders, business owners, and community members have raised related to developing and maintaining successful mixed use projects throughout the city. With mixed use development as the cornerstone of the City's 12th Avenue Development Plan, it is necessary for the City to adjust zoning as needed to accomplish adopted Plan goals. The Plan identifies many of the issues that the Mixed Use Study explores in greater depth.

The City Council adopted the 12th Avenue Development Plan on October 5, 1992, to provide direction to development of part of the Central Area community. Impetus for drafting the Plan came from the decision of the City Council to exchange the City's Jefferson Street bus barn property with Seattle University for six of their properties located along 12th Avenue. An Advisory Committee, composed of members of the Squire Park Community Council, Seattle University, the Central Area Economic Development Coalition, the City Council and the City of Seattle Office of Intergovernmental Relations, along with many other contributors, worked with City staff in preparing a development plan for these properties. The intent of the resulting 12th Avenue Development Plan is to guide the development of City-owned properties and stimulate neighborhood revitalization in a manner that furthers City and community goals for the area.

The Plan calls for three actions related to land use policies and regulations: an analysis of current zoning, a study of mixed use zoning provisions and an evaluation of the viability of existing mixed use projects citywide, and adoption of design guidelines to address compatibility of commercial and residential uses. The mixed-use zoning overlay proposal is a direct result of the completion of two of these three actions--the rezone of selected

¹ Mixed Use Development Standard Study, December 1993, prepared for the City of Seattle by Thomas and Potter, Seattle, WA. Thomas and Potter prepared the study under the direction of the Department of Construction and Land Use and the Department of Neighborhoods.

parcels within the Plan area and completion of the Mixed Use Development Standard Study. The intent of the rezone analysis was to examine zoning designations that would be more consistent with Plan goals for the area. Considering observations made in the Plan, the City Council directed the mixed-use analysis to include a review of the minimum size requirement for non-residential uses within a mixed-use project, the treatment of single-purpose residential development as a conditional use, and the development standards for single-purpose residential development.

In March of 1994 the City Council approved a rezone of parcels along the east side of 12th Avenue between East Jefferson and East Spring Streets from Neighborhood Commercial 3 with a height limit of 40 feet (NC3 40') and Commercial 1 with a height limit of 65 feet (C1 65') to Neighborhood Commercial 2 with a height limit of 40 feet (NC2 40'). The intent of the rezone is to encourage retail and commercial services that can enhance the diversity and stability of commercial activity in the community, and to prevent future development of businesses that do not support Plan goals for a mixed-use area serving the needs of the surrounding community. Although responsive to Plan goals, the NC2 zoning limits the size and range of allowed nonresidential uses when compared to the NC3 or C1 zoning designation. These limits, coupled with issues related to development standards for mixed use, create somewhat of a disincentive for the development of mixed use projects. Acknowledging this disincentive in their rezone decision, the Council referenced the possibility of overlay provisions to modify zoning standards for mixed-use development in order to enhance financial feasibility of projects.

The following recommendations are in response to 12th Avenue Development Plan goals contained in Ordinance 116374, Council directive resulting from the 12th Avenue rezone, and conclusions drawn from the Mixed Use Development Standard Study and subsequent City review.

ANALYSIS AND RECOMMENDATION

The Mixed-Use Development Standard Study analyzes mixed-use projects citywide in order to evaluate the success of mixed use zoning in meeting the City's objective to create vibrant, pedestrian-oriented districts of residential and neighborhood-serving commercial uses. While the success or failure of a given mixed use project is dependent on many factors, the study concludes that changes to the development standards could improve the chances for such projects to succeed. As applied to the 12th Avenue project area, that observation corresponds to a feasibility study done in 1991 for development of the Barclay Court parcels. The feasibility study identified several mixed-use development scenarios as infeasible under existing zoning due to the inability of the market to support rents needed to cover development costs. Other development scenarios were feasible but provided below market returns for the type of investment and risk envisioned, and therefore were unlikely to be built.

Another issue raised in the Study is that residential density limits in lowrise zones may be too low to support the price of the land. In addition, there are few undeveloped parcels in

multifamily zones. In order to develop housing, housing developers are turning to commercial zones where there are currently no residential density limits. Because some of these residential developers lack experience building and leasing commercial space, the commercial portion of some mixed use development may lack the necessary design characteristics to be successful. Thus, the feasibility of development in multifamily zones inadvertently resulted in impacts to development in commercial zones and sometimes to the subsequent success or failure of mixed use projects.

The proposal for a 12th Avenue Overlay District includes several changes to existing Land Use Code requirements for mixed-use projects. These changes would ameliorate the conditions presently working against mixed-use development in the area, and are intended to create a more supportive environment for future redevelopment. The specific recommendations include:

Nonresidential Square Footage

The Land Use Code requires mixed use structures 65 feet in height or lower to have 10 percent of the gross floor area of the structure or 50 percent of the structure's footprint, whichever is greater, in nonresidential use. The Code requires mixed use structures that exceed 65 feet in height to have an area equal to at least 50 percent of the structure's footprint in nonresidential use. The intent of this requirement is to ensure that builders provide ample commercial space in order to be considered a mixed use structure and preservation of limited commercial land in areas outside of downtown.

In some cases, this requirement has resulted in excessively large and deep commercial spaces that are not conducive to small, neighborhood-oriented businesses. Participant's in the Study's focus groups commented that this requirement produces too much commercial space regardless of the location's viability. The Focus groups also commented that the requirement makes no exceptions for circumstances such as a narrow site with good commercial frontage on only one side, which then results in excessively deep commercial space in order to meet the square footage requirement.

The Mixed Use Development Standard Study concluded that requiring a minimum area is unnecessary and that instead, the current street frontage minimum (discussed below) in addition to a minimum depth requirement will help encourage the design of usable and more marketable commercial space. These recommended changes still support the intent of mixed use development--creating residential development in close proximity to a vibrant commercial street frontage. A casual observer does not measure the mark of a vibrant commercial area by the square footage of the commercial space but rather by the presence of commercial activity at the street. The frontage requirement (discussed below) will ensure the presence of nonresidential space at the street level.

Recommendation: Eliminate the square footage requirement and add a depth requirement of at least 20 feet for the ground-floor nonresidential space of a mixed use structure.

Nonresidential Street Frontage

General Frontage

The Land Use Code requires that nonresidential uses occupy a minimum of 60 percent of a mixed use structure's street front facade at street level when the mixed use structure fronts on one street. The intent is to ensure that a mixed use structure maintains a significant amount of commercial street frontage to enhance streetfront activity and interest.

However, on some sites it is difficult to provide parking access and a residential lobby and still meet the street front facade standard. This is true for smaller development sites on which the structure may occupy the entire street front width and especially for those sites with no alley or side streets for access to parking. For example, if a structure's street front width is 50 feet, the nonresidential streetfront facade requirement is 30 feet. This leaves only 20 feet for a residential lobby and driveway access, if the developer provides driveway access at the street front. The Land Use Code requires a two-way driveway width of 22 feet for nonresidential uses. Given this scenario, an applicant must apply for a variance to provide less than the required street front facade.

Recommendation: Require that nonresidential uses occupy a minimum of 80 percent of a mixed use structure's street front facade at street level, not including a 22 foot wide driveway if this access is provided at the street front. Do not apply the exemption for the driveway width if the access can be provided from a side street or an alley.

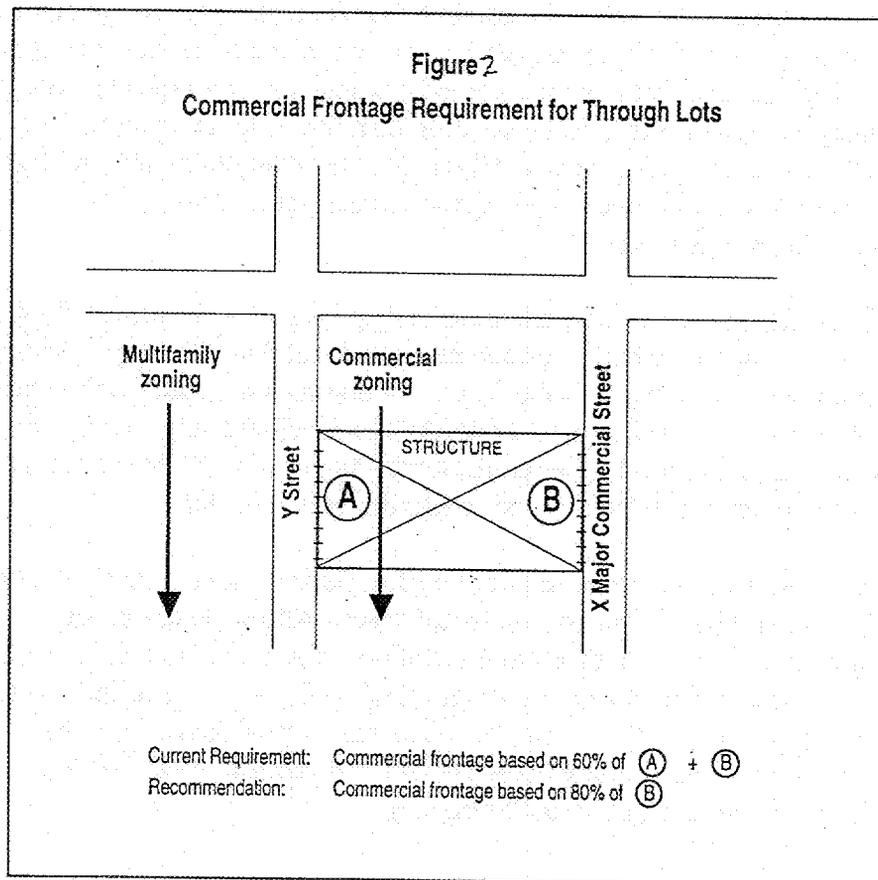
This proposed change would allow flexibility for small, narrow lots without side street or alley access while still requiring a strong visual presence of commercial activity at the streetfront regardless of the length of the street frontage of the lot.

Frontage on a Through Lot

When a mixed use structure fronts on more than one street (such as a corner lot or a through lot) and only abuts other lots zoned for commercial use, the Land Use Code requires that the street front facade rule be calculated by totaling the mixed use structure's total combined street front facade.

The street front facade rule for lots that front on two or more streets but only abut other lots zoned for commercial use is problematic for through lots. For example, consider a lot zoned for commercial use bordered by streets to the east and west and abutting other property zoned for commercial use to the north and south. While the street to the west may be a major commercial street, the street to the east may not be and may be across from multifamily zoned properties on the other side. However, the Land Use Code requires calculation of the street front facade by totaling the mixed use structure's total combined street front facade, as shown in Figure 2.

Recommendation: For a through lot that fronts on two noncontiguous streets and only abuts other lots zoned for commercial use, the Director may waive the street front facade requirement for one of the street fronts if the street is not a major commercial street.



First Floor Minimum Height

There are currently no regulations requiring a minimum ceiling height for the nonresidential (commercial) space on the first floor of a mixed use structure. Sometimes developers will reduce the height of the first floor nonresidential space when it would allow them to add another level of residential space without exceeding the height limit. This reduction in ceiling height, sometimes to as low as 8 feet, creates a handicap to commercial leasing where 11 to 12 feet (measured from floor to ceiling) is desirable to create a viable commercial space.

Therefore, a minimum height is recommended for ground-level nonresidential space to provide for marketable space. Currently, the Land Use Code requires that a minimum of 51 percent of a mixed use structure's street front facade containing nonresidential uses be at or above sidewalk grade, and that in neighborhood commercial zones the entrance to required nonresidential uses at street level be no more than three feet above or below sidewalk grade. Because these requirements will remain, the proposed minimum height requirement for the nonresidential space will not result in designers lowering the commercial space further below grade.

The Mixed Use Study also recommends a minimum ceiling height for residential floors in mixed use buildings. Although the building code requires 7 feet 6 inches for residential space, a higher ceiling will create more livable space. Requiring a minimum ceiling height for the nonresidential and residential space may reduce the development potential of a mixed use structure by an entire level. Therefore, some amount of flexibility is necessary to accommodate a minimum nonresidential and residential ceiling height.

Recommendation: Require a minimum height of 13 feet floor to floor from the first or ground floor to the second floor of the nonresidential space. Allow the option of exceeding the height limit of the zone by up to 4 feet if both the minimum height for the nonresidential space plus a minimum height of 9 feet floor to floor for the residential space is met. In both instances, measure the 13 feet for the nonresidential space from the midpoint of the structure's frontage along the street with the greatest lineal feet of commercially zoned frontage (see exhibit in Ordinance).

Upper Level Bulk and Scale

The Land Use Code requires that in a mixed use structure the residential portion that is more than 12 feet above finished grade be limited to a maximum width of 80 percent of the width of the lot and a maximum depth of 80 percent of the depth of the lot. The original intent of the 80/80 rule was to ensure that mixed use structures provide light and air to the residents who live in these structures and to ensure that the structures are compatible in scale with their surroundings.

This regulation has made it difficult to design mixed use structures, especially on small and irregularly shaped lots. It also, in some cases on small lots, excludes the use of courtyards

in the design of mixed use structures. Moreover, this regulation precludes the development of common wall construction on upper levels, which may be desirable in pedestrian-oriented areas to help maintain continuous street frontage on the portion of the building above 12 feet. The 80/80 rule also makes it difficult to rehabilitate and convert existing structures into mixed use structures. Older buildings were often constructed lot line to lot line for the entire height of the building, thus not meeting the 80/80 rule. Participants in the Study's focus groups commented that the 80/80 rule can result in poor design, does not allow conformance with neighborhood character and does not allow innovative solutions on oddly shaped lots.

The recommendation is to adopt a maximum lot coverage for residential use above 13 feet (the minimum floor to floor height of the nonresidential space) instead of maximum width and depth limits. This will give designers more flexibility while ensuring that potential bulk impacts are addressed. In addition to the proposed recommendation, when the Building Code requires window openings to provide light to interior portions of dwellings, it specifies distances from adjacent properties. Also, the design review process may be able to address the impacts of bulky buildings by modifying setback standards. Design review currently applies to mixed use structures subject to SEPA review in neighborhood commercial and commercial zones that are on lots adjacent to single family zones. SEPA review applies to structures that have more than 4 units and/or 4,000 square feet of nonresidential space in neighborhood commercial zones (NC1, NC2 and NC3) and to structures that have more than 4 units and/or 20,000 square feet of nonresidential space in commercial zones (C1 and C2). Design review, as of April 1995, will apply to all mixed use structures subject to SEPA review in all neighborhood commercial zones.

Recommendation: Eliminate the requirement that the residential portion of a mixed use building more than 12 feet above finished grade be limited to a maximum width of 80 percent of the width of the lot and a maximum depth of 80 percent of the depth of the lot. Instead, limit the residential portion of a mixed use building more than 13 feet above finished grade to a lot coverage of 70 percent. Existing buildings are exempt from this regulation.

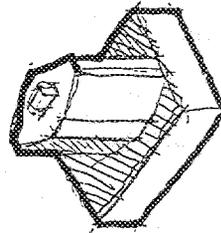
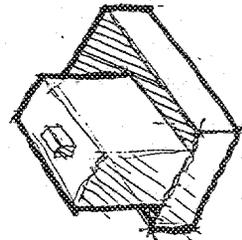
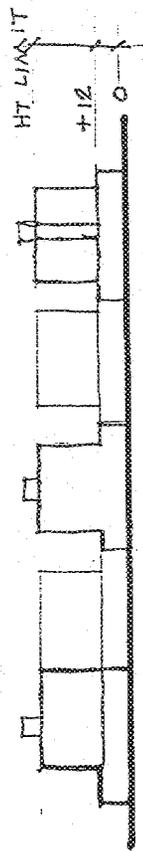
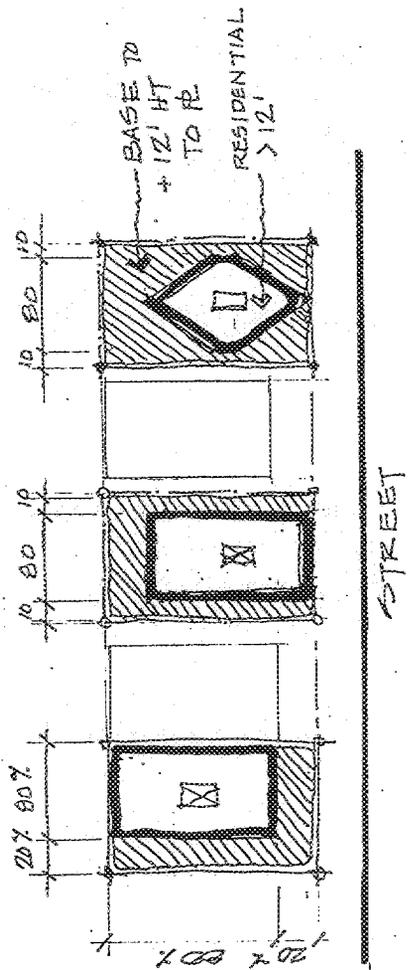
Figure 2 displays various mixed use projects subject to the 80/80 rule and to the 70% lot coverage rule.

Types of Nonresidential Uses

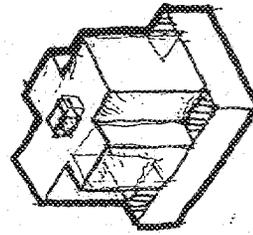
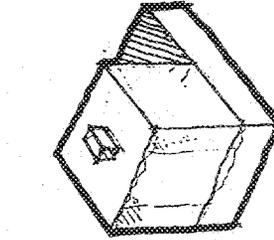
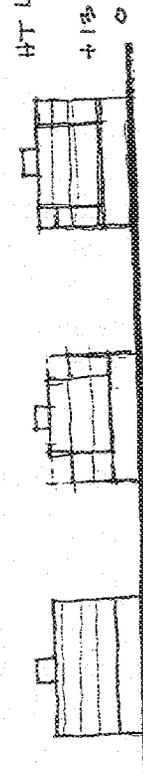
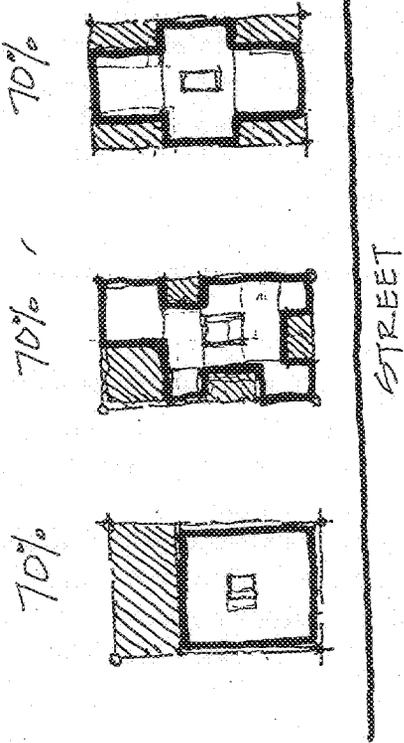
Interpretations of the Land Use Code allow lodging uses (such as residential inns and executive suites) and utilities (such as City Light rectifiers) as the nonresidential component of a mixed use structure. The intent of mixed use development is to encourage housing in close proximity to shopping, services and employment opportunities.

In most cases, lodging uses and utilities do not provide services for the immediately surrounding population nor do they encourage pedestrian-oriented streetfront activity.

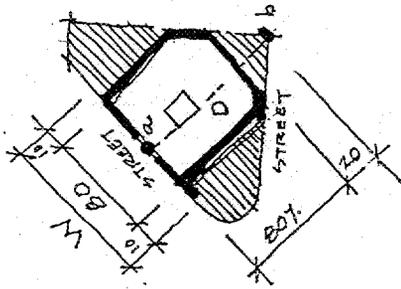
Figure 2
 Mixed Use Development Projects
 Subject to the 80/80 Rule and to the 70% Lot Coverage Recommendation



EXISTING



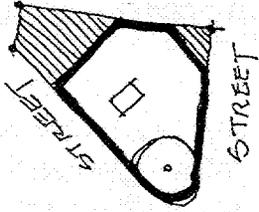
PROPOSED



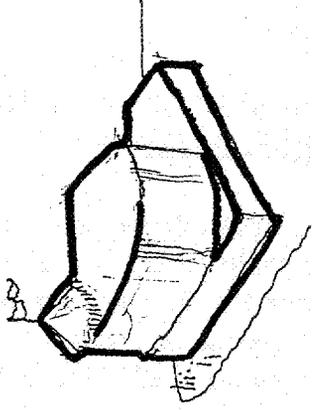
LOT AREA (A) = W · D

$$W = \frac{A}{D}$$

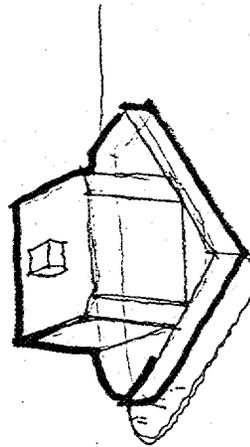
a-b = midpoint of front lot to vertex of triangular lot



70% COVERAGE



PROPOSED



EXISTING

Citizens have expressed concerns that building owners could easily convert a residential inn to apartment units.

Recommendation: Prohibit lodging and utility uses for the nonresidential requirement in mixed use structures as they are inconsistent with the intent of encouraging mixed use development.

Residential and Nonresidential Uses in Separate Structures Within One Lot/Development

The Land Use Code requires that the residential and nonresidential uses in a mixed use development be located in the same structure. Allowing residential and nonresidential uses in separate structures but on the same lot would allow for more design flexibility and could achieve the same intent of mixed use development. The City Council adopted this feature as part of the Northgate Plan in 1993. Allowing the commercial and nonresidential uses in separate structures would still encourage pedestrian-friendly development if appropriately configured and would create residential and commercial uses in close proximity to each other. Increased security and privacy and are other positive advantages to allowing uses in separate structures. DCLU could place conditions on a project to prevent the commercial structure from being converted to a second residential structure.

Recommendation: A mixed use development may consist of residential and nonresidential (commercial) uses located in separate structures on the same lot. Subject the nonresidential space to the 20 foot depth requirement, in addition to a street frontage requirement of 80% of the width of the lot (as opposed to the structure), excluding 22 feet if necessary for driveway access. The nonresidential structure is subject to the types of uses allowed (recommendation above) but is not subject to the first floor minimum height limit. The residential structure would not be subject to the 70% lot coverage provision for residential space 13 feet above grade.

Report and Recommendation

**City of Seattle
Department of Construction and Land Use
and the
Department of Neighborhoods
proposal for**

12th Avenue Mixed Use Zoning Overlay

September 1, 1994

INTRODUCTION

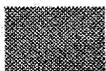
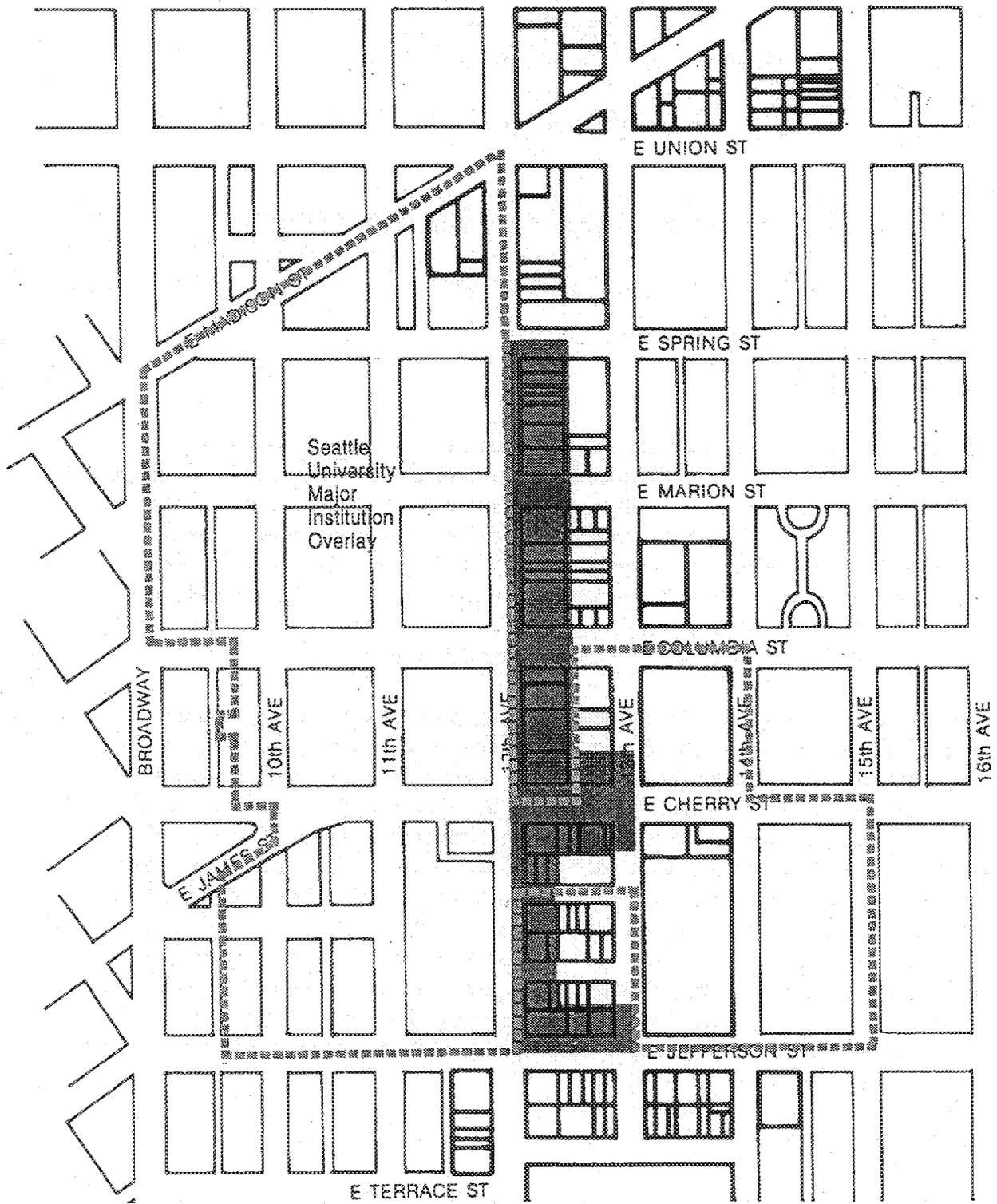
The Department of Construction and Land Use (DCLU) and the Department of Neighborhoods (DON) recommend the creation of a mixed use zoning overlay for parcels within the City's 12th Avenue Development Plan study area. The Plan area includes parcels along the east side of 12th Avenue between East Spring and Jefferson Streets. Approved by the City Council in October 1992, the 12th Avenue Development Plan includes neighborhood and street improvements, mixed-use and residential development and changes in land use regulations that together constitute a multi-faceted approach to redevelopment of a critical edge of the larger Central Area community.

The goal of the 12th Avenue Development Plan is to create a vibrant, neighborhood-serving business area characterized by mixed use development, defined as structures containing both residential and commercial uses. The recommended overlay includes Land Use Code revisions for mixed use development standards, such as the amount of non-residential use required, the relationship of non-residential use to the street, bulk limits, and types of commercial uses permitted. The purpose of these changes is to better achieve the intent of mixed use development, which is to create viable nonresidential uses at the street level that provide goods and services to the surrounding community and are adjacent to residential uses. Furthermore, because the issues surrounding mixed use development in the 12th Avenue Plan study area and mixed use development in other parts of the city are similar, the 12th Avenue Overlay proposal foreshadows changes that DCLU may propose citywide as part of implementation of the City's Comprehensive Plan. Figure 1 displays the 12th Avenue Overlay Area.

BACKGROUND

In 1987, the City of Seattle adopted regulations to encourage mixed use development in commercial zones to promote active, pedestrian-oriented districts that include housing while preserving the neighborhoods' capacity for commercial development. In 1989,

Figure 1
12th Avenue Overlay Area



Overlay boundary—all zoning is
Neighborhood Commercial 2 40'

City of Seattle

Executive Department—Office of Management and Budget

Diana Gale, Director
Norman B. Rice, Mayor

COPY RECEIVED

94 SEP 29 PM 3: 27

SEATTLE CITY ATTORNEY



94-276

September 28, 1994

The Honorable Mark Sidran
City Attorney
City of Seattle

RDT OK

10-4-94

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Construction and Land Use

SUBJECT: AN ORDINANCE relating to land use and zoning, amending Sections 23.47.002, 23.47.008, 23.47.012 and 23.47.013 of the Seattle Municipal Code and adding a new chapter 23.72 to the Seattle Municipal Code to create the 12th Avenue Overlay District; adopting amendments to the Official Land Use Map, Chapter 23.32 to establish the 12th Avenue Overlay District.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Ethan Melone at 48066.

Sincerely,

Norman B. Rice
Mayor

by

DIANA GALE
Budget Director

legis/melone5

Enclosure

cc: Director, DCLU

STATE OF WASHINGTON - KING COUNTY

48955
City of Seattle, City Clerk

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

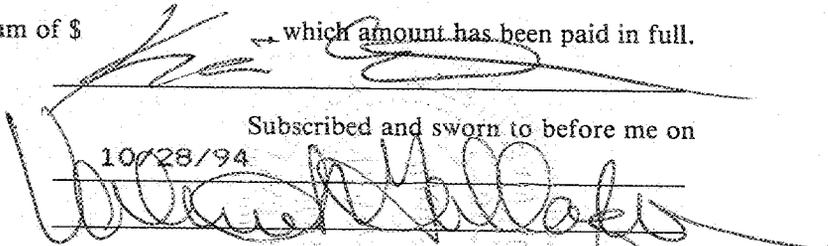
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 117350

was published on

10/28/94

The amount of the fee charged for the foregoing publication is the sum of \$ _____ which amount has been paid in full.


Subscribed and sworn to before me on
10/28/94

Notary Public for the State of Washington
residing in Seattle

City of Seattle

ORDINANCE 117850

relating to land use and zoning, amending Sections 23.47.002, 23.47.012 and 23.47.013 of the Seattle Municipal Code and adding a 23.72 to the Seattle Municipal Code to create the 12th Avenue Overlay District; adopting amendments to the Official Land Use Map, Chapter 23.32, to establish the 12th Avenue Overlay District; NOW THEREFORE

BY THE CITY OF SEATTLE AS FOLLOWS:

Official Land Use Map of the City of Seattle, SMC 23.32.016, is amended to establish the 12th Avenue Overlay District. The boundaries of the 12th Avenue Overlay District are shown on Figure 1 attached hereto.

Seattle Municipal Code Section 23.47.002, last amended by Ordinance 116795, is amended as follows:

Section 3. Seattle Municipal Code Section 23.47.008, last amended by Ordinance 116795, is amended as follows:

12th Avenue Overlay District, as shown on the City's Official Land Use Map, Chapter 23.32 and Figure 1.

23.72.006 Application of Regulations

All land located within the 12th Avenue Overlay District is subject to the regulations of the underlying zone unless specifically modified by the provision of this chapter. In the event of a conflict between the provisions of this chapter and the underlying zone, the provisions of this Chapter apply. In the event of a conflict between the provisions of this Chapter and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter 23.69 apply.

Subchapter II Development Standards

23.72.008 Mixed Use

A. A mixed use development consists of residential and nonresidential uses in the same structure or in separate structures on the same lot.

B. A minimum of eighty percent (80%) of a mixed use development's street front facade at street level shall be occupied by nonresidential uses. The required nonresidential uses shall extend at least thirty feet (30') from the front of the structure to the rear or have an area equal to fifty percent (50%) of the structure's footprint, whichever is less, and subject to the following:

1. For purposes of calculating the eighty percent (80%) of a mixed use development's street front facade at street level, twenty-two feet (22') for the width of a driveway accessing parking if the access cannot be provided from a side street or alley may be subtracted from the length of the street front facade.
2. If the nonresidential and residential uses are located in separate structures, the requirement shall apply to the lot's lineal street frontage at street level.
3. The requirement for nonresidential use frontage and depth shall be in uses other than principal use parking, accessory parking for nonresidential uses, mini-warehouses, warehouses, lodging or utilities.
4. Where the lot fronts on two (2) or more streets and abuts a lot which is not zoned for commercial use, the street front facade requirement shall apply to the structure's facade along the street with the greatest continuous lineal feet of commercially zoned frontage.
5. Where a lot fronts on two (2) or more streets and only abuts lots which are zoned for commercial use, the street front facade requirement shall be calculated by totaling the mixed use structure's total combined street front facades. For a through lot where two (2) or more street fronts are not contiguous, the Director may waive the requirement for one of the street fronts if the street is not a major commercial street. The Director may require screening of garbage cans, parking and utility meters where the streetfront requirement is waived.
6. A minimum of fifty-one percent (51%) of the portion of a mixed use

Figure 1
12th Avenue Overlay Area

